IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

APPEAL NO.758 OF 2004

IN

SUMMONS FOR JUDGMENT NO.46 OF 2003

IN

SUMMARY SUIT NO.3803 OF 2001

...

Dinakar Bhamidipati ...Appellant

v/s.

Bank of India ...Respondent

...

Mr.Vipul Shukla for the Appellant.

Mr.O.A.Das for the Respondent.

...

CORAM: D.K.DESHMUKH &

J.H.BHATIA, JJ.

DATED: 16TH AUGUST, 2007

P.C.:

1. This Appeal is directed against the order dated 11th August, 2005 passed by the learned single Judge of this court in summons for judgment No.46 of 2000. The learned single Judge has granted summons for judgment and has decreed the summary suit filed by the Bank.

2. After having heard the learned counsel appearing for both sides, we find that the amount of principal appears to be approximately Rs.40,000/-. Interest has been claimed at the rate of 2.5% p.m. Though, it is true there appears to be an agreement between the parties for charging that rate of interest, there is some defence to be offered on behalf of the Defendant that the rate of interest is excessive and unreasonable. The learned Counsel appearing for the Defendant is willing to deposit the amount of principal. In our opinion, apart from the amount of principal, some amount towards the interest should also be deposited. In our opinion, following order would meet the ends of justice.

O R D E R

(i) On the Defendant/Appellant depositing an amount of Rs.80,000/- with the Plaintiff-bank, without prejudice to his rights and contentions in the suit, within a period of 12 weeks from today, the order impugned in this appeal shall stand set aside and leave to defend shall stand granted to the Defendant.

(ii) In that event, the Defendant shall file his written statement within a period of six weeks from the date of deposit of the amount.

(iii) If the above referred amount is not deposited within the aforesaid period, the office shall treat this appeal as dismissed and the Plaintiff shall be at liberty to execute the decree immediately.

(iv) Appeal disposed of.

(D.K.DESHMUKH, J.)

(J.H.BHATIA, J.)